

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 846

Introduced by Schilz, 47.

Read first time January 08, 2010

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act;
2 to amend section 48-125, Revised Statutes Supplement,
3 2009; to change interest rate provisions on certain
4 compensation court awards; to repeal the original
5 section; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-125, Revised Statutes Supplement,
2 2009, is amended to read:

3 48-125 (1) (a) Except as hereinafter provided, all amounts
4 of compensation payable under the Nebraska Workers' Compensation
5 Act shall be payable periodically in accordance with the methods
6 of payment of wages of the employee at the time of the injury or
7 death. Such payments shall be sent directly to the person entitled
8 to compensation or his or her designated representative except as
9 otherwise provided in section 48-149.

10 (b) Fifty percent shall be added for waiting time for
11 all delinquent payments after thirty days' notice has been given
12 of disability or after thirty days from the entry of a final
13 order, award, or judgment of the compensation court, except that
14 for any award or judgment against the state in excess of one
15 hundred thousand dollars which must be reviewed by the Legislature
16 as provided in section 48-1,102, fifty percent shall be added
17 for waiting time for delinquent payments thirty days after the
18 effective date of the legislative bill appropriating any funds
19 necessary to pay the portion of the award or judgment in excess of
20 one hundred thousand dollars.

21 (2) Whenever the employer refuses payment of compensation
22 or medical payments subject to section 48-120, or when the employer
23 neglects to pay compensation for thirty days after injury or
24 neglects to pay medical payments subject to such section after
25 thirty days' notice has been given of the obligation for medical

1 payments, and proceedings are held before the Nebraska Workers'
2 Compensation Court, a reasonable attorney's fee shall be allowed
3 the employee by the compensation court in all cases when the
4 employee receives an award. Attorney's fees allowed shall not
5 be deducted from the amounts ordered to be paid for medical
6 services nor shall attorney's fees be charged to the medical
7 providers. If the employer files an application for review before
8 the compensation court from an award of a judge of the compensation
9 court and fails to obtain any reduction in the amount of such
10 award, the compensation court shall allow the employee a reasonable
11 attorney's fee to be taxed as costs against the employer for such
12 review, and the Court of Appeals or Supreme Court shall in like
13 manner allow the employee a reasonable sum as attorney's fees for
14 the proceedings in the Court of Appeals or Supreme Court. If the
15 employee files an application for a review before the compensation
16 court from an order of a judge of the compensation court denying an
17 award and obtains an award or if the employee files an application
18 for a review before the compensation court from an award of a judge
19 of the compensation court when the amount of compensation due is
20 disputed and obtains an increase in the amount of such award, the
21 compensation court may allow the employee a reasonable attorney's
22 fee to be taxed as costs against the employer for such review, and
23 the Court of Appeals or Supreme Court may in like manner allow the
24 employee a reasonable sum as attorney's fees for the proceedings in
25 the Court of Appeals or Supreme Court. A reasonable attorney's fee

1 allowed pursuant to this section shall not affect or diminish the
2 amount of the award.

3 (3) When an attorney's fee is allowed pursuant to this
4 section, there shall further be assessed against the employer an
5 amount of interest on the final award obtained, computed from the
6 date compensation was payable, as provided in section 48-119, until
7 the date payment is made by the employer, at a ~~rate equal to the~~
8 ~~rate of interest allowed per annum under section 45-104.01,~~ the
9 rate provided in section 45-103, as such rate may from time to
10 time be adjusted by the Legislature. Interest shall apply only to
11 those weekly compensation benefits awarded which have accrued as of
12 the date payment is made by the employer. If the employer pays or
13 tenders payment of compensation, the amount of compensation due is
14 disputed, and the award obtained is greater than the amount paid
15 or tendered by the employer, the assessment of interest shall be
16 determined solely upon the difference between the amount awarded
17 and the amount tendered or paid.

18 Sec. 2. Original section 48-125, Revised Statutes
19 Supplement, 2009, is repealed.

20 Sec. 3. Since an emergency exists, this act takes effect
21 when passed and approved according to law.